

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 70 (Sub-No. 6X)

**Florida East Coast Railway, L.L.C. – Abandonment Exemption –
in Miami-Dade County, FL**

BACKGROUND

In this proceeding, the Florida East Coast Railway, L.L.C. (FEC) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Miami-Dade County, Florida. The rail line proposed for abandonment extends 1.21 miles on its South Little River Branch Line between milepost LR 11+3989 and milepost LR 13+0000 (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

The Line is in an urban area approximately seven miles west of Miami. FEC states that at the Line's southern terminus, it adjoins a former FEC right-of-way that was previously abandoned.

ENVIRONMENTAL REVIEW

FEC submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. FEC served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 70 (Sub-No. 6X).

Diversion of Traffic

According to FEC, no local traffic has moved over the line for at least two years and all overhead traffic was rerouted years ago. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. FEC states that while it would remove track and ties, it would leave ballast materials, culverts, and a trestle bridge in place in anticipation of trail use. FEC states that the Line crosses a waterway via the trestle bridge that it does not plan to remove at milepost LR 12.23+.

FEC plans to conduct salvage activities—removing only the track and ties—by using the existing right-of-way for access, along with existing public and private road crossings. FEC plans no new access roads. According to FEC, salvage activities would not cause sedimentation or erosion of the soil, and FEC does not anticipate any dredging or use of fill when removing the track material. Further, no debris would be discarded along the right-of-way and any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials.

The railroad does not intend to appreciably remove or alter the contour of the roadbed underlying the rail line, and disturbed areas would be limited to the right-of-way wherever possible. FEC also has no plans to undertake in-stream work, however, the Line passes through 100-year floodplains. Accordingly, we have included the appropriate offices of the U.S. Army Corps of Engineers and the Federal Emergency Management Agency on the service list for this proceeding to ensure that they receive a copy of this Environmental Assessment.

Miami-Dade County is within a designated coastal zone and the Florida Department of Environmental Protection, Division of Water Resource Management (FDEP) and Florida Coastal Management Program (FCMP) have not yet completed their reviews of the proposed abandonment. Thus, we will recommend that a condition be imposed on any decision granting abandonment authority requiring FEC to consult with FDEP and FCMP prior to beginning any salvage activities to determine whether state coastal management consistency certification is required. If consistency certification is required, then FEC must obtain consistency certification before it may conduct any salvage activities of the Line. We have recommended a condition prohibiting FEC from performing any salvage activities until it obtains consistency certification pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq. and the Board's environmental regulations at 49 CFR 1105.9 and notifies OEA.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

OEA received comments from several federal, state, and local agencies. The U.S. Fish and Wildlife Service (USFWS) concurred with OEA's reasoning that though the Line is located within the critical habitat of a number of plant and animal species, if abandonment were approved, there would be no negative impacts to the habitats of these species. The South Florida Water Management District commented that because the bridge located on the Line would not be renovated or removed, no permit review under Environmental Resource Permitting or Right-of-Way would be triggered.

OEA also received a comment letter from the Miami-Dade County Department of Regulatory and Economic Resources (DRER) Planning Division, Metropolitan Planning Section, advising OEA that a 0.6-mile segment of the Line is located within the City of Miami's jurisdictional boundaries. Consequently, DRER requests that the City of Miami be consulted to ensure that the proposed abandonment is consistent with the City's Comprehensive Development Master Plan.

DRER also requests that three conditions be imposed on any decision granting abandonment authority. First, that any work to be conducted in the C-4 canal and associated lagoons and waterways be designed to prevent entrapment or injury to manatees. Because the proposed abandonment would not result in culverts being altered, added, or removed, OEA believes that no manatees would be entrapped or injured. Further, USFWS has determined that there would be no negative impacts to threatened or endangered species protected by the Endangered Species Act.

Second, DRER requests that FEC remove all prohibited plant species located on the site prior to commencement of salvage activities. Because no construction activities or disturbance of non-rail right-of-way would occur, OEA believes that salvage of the rails and ties within the rail right-of-way would not disturb prohibited plant species. Any redevelopment that may occur post-abandonment, such as a trail, would be beyond the Board's jurisdiction.

Third, DRER requests that asbestos survey(s) be conducted prior to any construction activities. Because no construction would occur and no asbestos-containing materials are present in the rail right-of-way, this condition is not necessary.

Based on all information available to date, OEA believes that salvage activities would not result in any significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to the following agencies for review and comment: FEMA, the Corps, FDEP, and FCMP.

HISTORIC REVIEW

FEC served the Historic Report on the Florida State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that additional information is needed in order to complete its review of the proposed abandonment.

Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.² The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Seminole Tribe of Florida and the Seminole Nation of Oklahoma (previously listed as Seminole Nation of Oklahoma). Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

We recommend that the following condition be imposed on any decision granting abandonment authority:

- 1. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, the Florida East Coast Railway, L.L.C. (FEC) shall consult with the Florida Department of Environmental Protection, Division of Water Resource Management (FDEP) and the Florida Coastal Management Program (FCMP) and obtain state coastal management consistency certification. FEC may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.**
- 2. FEC shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. FEC shall report back to OEA regarding any consultations with the SHPO and the public.**

² Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD> (last visited February 2, 2016).

FEC may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Adam Assenza, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking

on the “E-FILING” link. **Please refer to Docket No. AB 70 (Sub-No. 6X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Adam Assenza, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at adam.assenza@stb.dot.gov.

Date made available to the public: February 16, 2016.

Comment due date: March 2, 2016.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment